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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,926	07/12/2006	Shmuel Ben-Muvhar	LANGV1.004APC	9107
20995 7590 03/31/2011 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER BUI, VY Q	
			ART UNIT 3773	PAPER NUMBER
			NOTIFICATION DATE 03/31/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/595,926	Applicant(s) BEN-MUVHAR, SHMUEL	
	Examiner Vy Q. Bui	Art Unit 3773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 14-38, 40 and 41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/19/06;12/22/06;4/12/07;1/8/09;2/1/11</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of the invention as shown in F 1 in the reply filed on 2/1/2011 is acknowledged. Sub-species 10 is elected with traverse because F 10 does not illustrate a different embodiment or species from those in F 9A, 9B and 9C. The traverse is moot and sub-species as shown in F 10 is also the same as those shown in F 9A-9C.

However, claims 35-38 recite a catheter for delivery of stent 20 of F 1 is indeed a distinct invention. The stent delivery catheter is classified in class 623, subclass 1.11. For this reason, the stent delivery catheter as recited in claims 35-38 have been withdrawn from further examination as non-elected invention.

Claims 1-13 and 39 of a medical implant / stent has been elected and hereby further examined.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8-9, 11-13 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Ruiz-6,120,534 (Ruiz).

As to claims 1-6, 8-9, 11-13 and 39, Ruiz (F 2A-2B, 5A-5C; C 3, L 49-57; C 5, L 25 to C 6, L 3) discloses stent 10 (F 2A-2B) or 50 (F 5A-5C) comprising elastic mesh 16 of nikel-titanium

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alloy or stainless steel (C 3, L 49-57) including 1st and 2nd ring / serpentine members / struts 18 (F 2A-2B) or 56a (F 5A-5C) defining two enlarged frame works 11 & 12 at both end of stent 10 (F 2A-2B), tubular sleeve / cover 52 (F 5B), constricted element 13 (F 2A-2B) defined by serpentine rings in constricted element 13 (F 2A-2B) or constricted element 54 (F 5A-5C) defined by serpentine ring members / narrow connecting pieces 56b (F 5A-5C), and longitudinal support members 55 (F 5B).

As to claim 39, notice that when a radial force is applied outwardly to the serpentine ring members / narrow connecting pieces in constricted element 13 (F 2A-2B) or constricted element 54 (F 5A-5C), this radial will cause the serpentine ring members / narrow connecting pieces in constricted element 13 (F 2A-2B) or constricted element 54 (F 5A-5C) to break open as recited in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruiz-6,120,534 (Ruiz).

As to claim 7, Ruiz does not disclose stitching the cover to framework 11 or 12 (F 2A-2B). However, stitching a fabric or a cover / graft to a stent framework is well known method for securing a fabric or cover or a graft to a stent framework. It would have been obvious to one of ordinary skill in the art to use this well known method to secure the cover / fabric / graft to a stent framework.

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As to claim 10, Ruiz (F 5C, for example) shows sleeve / cover 52 cover the protrusions and interstices at the end of the stent 50. Ruiz does not disclose cutting the cover /tube 52 in conformance to the protrusions. However, this cutting is considered as a design choice to allow the protrusions to be more directly contact a wall of a blood vessel so that the stent 50 will be better anchored to the blood vessel.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vy Q. Bui/
Primary Examiner, Art Unit 3773